Single Bench

(13)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

CHHATTISGARH

W.P. NO. 4481 /2004

PETITIONER : Umend Singh Thakur
Aged about 48 years
S/o. Shri Kashi Nath Thakur
Occupation-Block Education Officer Dondi
R/o. Village Dondi, Tahsil Balod, District Durg (C.G.)

P.R. No. 4453/04 Presented by Shri O.N. Sahu dated 17/11/04

VERSUS

RESPONDENTS

1. State of Chhattisgarh
Through the Secretary
Department of Tribal Welfare
D.K.S. Bhawan Raipur (C.G.)

2. The Commissioner
Tribal Welfare Department
Raipur (C.G.)

3. The Collector
Tribal Development Branch
District Durg (C.G.)

4. S.S. Mandavi
S/o. not known
Area Organizer
Tribal Department
Rajnandgaon (C.G.)

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WRIT PETITION UNDER ARTICLE 226/227 OF CONSTITUTION OF INDIA

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..W.P. 4481/04..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	12.07.2005 Mr. B.L. Dembra, Advocate and Mr. C.R. Sahu, learned counsel for the petitioner. Mr. Bhaskar Payashi, learned Panel Lawyer for the State of Chhattisgarh / respondents 1 to 3. Mr. Parag Kotecha, learned counsel for respondent No.4. This petition has been filed under Article 226 of the Constitution of India impugnes the order dated 09.11.2004 (Annexure P-4) whereby the earlier order dated 25.09.2004 (Annexure P-1) has been cancelled. Learned counsel for the petitioner submits that the order dated 25.09.2004 (Annexure P-1) is not a transfer order and therefore, subsequent order dated 09.11.2004 (Annexure P-4) cancelling the earlier order dated 25.09.2004 (Annexure P-1) on the ground that there was violation of transfer policy 2004-05 is not correct and legal. Learned counsel appearing for respondents 1 to 3 submits that the transfer policy 2004-05 dated 07.07.2004 (Annexure R/1-1 provides that no transfer can be made except in following cases, with the permission of the concerned Minister: (1) For posting on return from deputation, whereby the said order any other person is not effected;	

(76)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक W.P. 4481/04 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

(2) For sending a government employee of a department to different department on deputation or deployment and where both the departments agreed for the same (however, for Class-I Officers the order of the Chief Minister on a recommendation from Chief Secretary would be necessary);

(3) In the case of posting on allocation of a government servant from State of Madhya Pradesh to State of Chhattisgarh, if some other employee is not effected by the same posting;

(4) For the posting on the vacant post of eligible candidates appointed by selection through Public Service Commission;

(5) Transfer order made in compliance of directions / judgments from Courts;

(6) Transfer made on request (on own cost) if by the said order no standing instructions are violated;

(7) Transfer of Class-IV employees.

In the present case, there was no necessity of transferring the petitioner as per prescribed conditions. The transfer order was made without approval of the concerned Minister also. Hence the transfer order was bad and illegal.

Learned counsel appearing for the respondents adapts the contentions of the counsel appearing for the respondents 1 to 3.

SP/FS/2005 - 20,000

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Having heard the contentions of all the parties and having gone through the papers of the case including transfer policy, it is found that transfer order dated 25.09.2004 (Annexure P-1) was passed in violation of transfer policy 2004-05 dated 07.07.2004. Admittedly no condition as prescribed for transfer was in existence and no approval of the concerned Minister was also obtained before the order dated 25.09.2004 (Annexure P-1) transferring the petitioner as In-charge, Block Education Officer, Tribal Welfare Block, Dondi, District Durg, was passed. Under the facts and circumstances of the case, the petition is dismissed. No order as to costs. Sd/- Satish K. Agnihotri Judge	

Sarma

SP/FS/2005 - 20,000